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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER

GANTT, ALAN T

ART UNIT	PAPER NUMBER
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2684

DATE MAILED: 12/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/929,979	<b>Applicant(s)</b> TERNULLO ET AL.	
	<b>Examiner</b> Alan T. Gantt	<b>Art Unit</b> 2684	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 11 October 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,3,4,7-14,17,18,21,22 and 24-43 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1,3,4,7,8,21,22,24-28 and 41-43 is/are allowed.
- 6) ☒ Claim(s) 9-14,17,29,31-35 and 37-39 is/are rejected.
- 7) ☐ Claim(s) 18,30,36 and 40 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Response to Arguments***

Applicant's arguments filed 10/11/05 have been fully considered but are moot in view of the new ground(s) of rejection. Applicant claims benefit of a provisional application. Upon reviewing the provisional application, the examiner finds applicant is deserving of the file date of the provisional. The indicated allowability of claims 29-40 is withdrawn in view of the newly discovered reference(s) to Krasinski, DuVal and Aufricht. Rejections based on the newly cited reference(s) follow.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 9-14, 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Treyz et al., in view of Duval et al.

Regarding claim 9, Treyz discloses a system in which a handheld computing device may be used to provide a user with shopping assistance services. Treyz includes a handheld device operating in a context associated with a transmitter / receiver conveying a transmitted signal, said handheld device comprising:

means for receiving said transmitted signal to form a received signal, said  
received signal containing an advertisement comprising information from a service

provider offering a service, (col. 39, lines 6-62)

said received signal further being present if said handheld device is located within said context, said context being communicatively associated with said transmitter; and (col. 39, lines 6-62)

means for extracting said advertisement if a user of said handheld device has expressed an interest in such a service. (col. 55, lines 31-40)

Treyz is silent regarding received information including an XML element and encapsulated in an integrity element.

DuVal discloses a device for wirelessly receiving internet content and meets the following limitations for receiving with a handheld device:

wherein said information includes a first XML element; (paragraph 0018)

and

wherein said information is encapsulated in an integrity element (paragraph 0018 – since an integrity element is in the XML format the device has capabilities to receive the signal)

Treyz and DuVal are combinable because they share a common endeavor, namely, receivers that devices that receive content for display. At the time of the applicant's invention it would have been obvious to modify Treyz to include means for receiving an xml message as done by DuVal to allow for format flexibility.

Regarding claims 10, DuVal meets the limitation – the handheld device of claim 9 wherein the means for extracting includes plug-ins (paragraph 0022).

Regarding claim 11, Treyz meets the limitation - The handheld device of claim 9 wherein said transmitted signal is a diffuse infrared signal. (col. 13, lines 10-15 and col. 30, lines 3-21)

Regarding claim 12, Treyz meets the limitation - The handheld device of claim 9 further comprising means for displaying at least a portion of said information to said user. (col. 10, lines 9-19)

Regarding claim 13, Treyz meets the limitation - The handheld device of claim 12 further comprising means for accepting an input from said user, said input provided in response to said at least a portion of said information. (col. 20, line 75 to col. 22, line 15)

Regarding claim 14, DuVal meets the limitation -The handheld device of claim 11 wherein said transmitter further includes means for receiving a reply from said handheld device, said reply generated in response to said input. (paragraph 0016 – the device can be interrogated, therefore an a reply is expected from the device)

Regarding claim 17, DuVal meets the limitation – the handheld device of claim 9 wherein said integrity element includes a second XML element (paragraph 0018 – since an integrity element is in the XML format the device has capabilities to receive the signal).

Claims 29, and 31-33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Treyz et al., in view of Aufricht et al.

Regarding claim 29, Treyz discloses a system in which a handheld computing device may be used to provide a user with shopping assistance services. Treyz describes a method for receiving contextual information contained in an emitted signal received from a transmitter having a coverage area associated therewith, said method comprising the steps of:

establishing a preference for said information; (col. 55, lines 30-40)

Treyz is silent on passing the information to the handheld device formatted as an XML element.

Aufricht discloses an interactive advertisement mechanism enabled to be loaded on a mobile device and for users of mobile devices to operate with such interactive advertisements on their mobile devices in an interactive manner while in an off-line mode. Aufricht allows for placing objects such as interactive advertisements such as Internet or Web content on mobile devices (paragraph 0033). Aufricht meets the following limitation:

receiving said signal containing said information, said information included in a broadcast XML element; (paragraph 0033 and Table 1 [placing interactive advertisements from the internet or Web content to mobile devices with XML being one of the allowable forms; also Aufricht allows for broadcasting of the information [paragraph 0211])

processing said broadcast XML element to extract said information; ; (paragraph 0033 and Table 1 [placing interactive advertisements from the internet or Web content to mobile devices with XML being one of the allowable forms)

displaying at least a portion of said information to said user located within said coverage area if said preference was established prior to receiving said broadcast XML element whereby said information is received from said transmitter. (paragraph 0180)

Treyz and Aufricht are combinable because they share a common endeavor, namely handheld devices and commerce system that provide advertisements to the user. At the time of the applicant's invention it would have been obvious to modify Treyz to include XML elements in communicating from the server transmitter to the user's handheld in order to provide a more refined presentation at the user's handheld.

Regarding claim 31, Treyz meets the limitation - The handheld device of claim 29 wherein said transmitted signal is a diffuse infrared signal. (col. 13, lines 10-15 and col. 30, lines 3-21)

Regarding claim 32, the applicant's specification admits that the technique of diffuse infrared signals generated by modulating electric light is known in the art. (paragraph 0167)

Regarding claim 33, the examiner takes Official Notice that it is well known to utilize plug-ins associated with interests and that it would have been obvious to modify the Treyz /

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Aufricht combination to include plug-ins to connect a desired user with the desired interest and filter out those that do not share the interest.

Claims 34, 35, 37-39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Treyz et al., in view of Krasinski.

Regarding claim 34, Treyz discloses a system in which a handheld computing device may be used to provide a user with shopping assistance services and a method of utilizing executable code in a transmitter to establish a context of a user having a handheld device and operating within a coverage area associated with said transmitter, said method comprising the steps of:

receiving information about a service at said transmitter, said information being of interest to a user of said handheld device if said user is located within said coverage area; (col. 55, lines 30-40)

emitting said signal to said handheld device located within said coverage area, said information displayed to a user of said handheld device. (col. 39, lines 49-62)

Treyz is silent on passing the information to the handheld device formatted as an XML element.

Krasinski discloses a method for streaming XML content in a manner that allows the receiver to decode the XML data that is actually received. Krasinski is relied upon because it utilizes an XML transmitter to process a text source using the identified XML template to generate the transmitted content in a streamed XML format. Thus, Krasinski meets the following limitation:



formatting said information into an XML element for conversion into a signal; (col. 4, lines 23-40)

Treyz and Krasinski are combinable because they share a common endeavor, namely, handheld devices that receive and send information. At the time of the applicant's invention it would have been obvious to modify Treyz to include means for converting a text source into a streamed xml format utilizing a template within the transmitter as done by Krasinski to allow for format conversions.

Regarding claim 35, Treyz meets the limitation - The method of claim 34 wherein said information is only displayed to said user if said user has established a preference prior to receiving said signal. (col. 39, lines 49-62)

Regarding claim 37, Treyz discloses a system in which a handheld computing device may be used to provide a user with shopping assistance services and consequently a method of utilizing executable code in a handheld device receiving a signal from a transmitter, said method comprising the steps of:

establishing a preference for information contained in said signal, (col. 55, lines 30-40)

receiving said signal at a communication interface communicatively associated with said handheld device; (col. 55, lines 30-40)

processing said signal to extract said information contained therein; (col. 39, lines 49-62) and

displaying at least a portion of said information to a user located within said coverage area. (col. 39, lines 6-62)

Treyz is silent on passing the information to the handheld device formatted as an XML element.

Krasinski discloses a method for streaming XML content in a manner that allows the receiver to decode the XML data that is actually received. Krasinski is relied upon because it utilizes an XML transmitter to process a text source using the identified XML template to generate the transmitted content in a streamed XML format. Thus, Krasinski meets the following limitation:

said information being formatted as an XML element; (col. 4, lines 23-40)

Treyz and Krasinski are combinable because they share a common endeavor, namely, receivers that receive and send information. At the time of the applicant's invention it would have been obvious to modify Treyz to include means for converting a text source into a streamed xml format utilizing a template within the transmitter as done by Krasinski to allow for format conversions.

Regarding claim 38, the examiner takes Official Notice that it is well known to utilize plug-ins associated with interests and that it would have been obvious to modify the Treyz / Krasinski combination to include plug-ins to connect a desired user with the desired interest and filter out those that do not share the interest.

Regarding claim 39, Treyz meets the limitation - The method of claim 37 wherein said coverage area defines a context for said user receiving said emitted signal. (col. 39, 6-62)

***Allowable Subject Matter***

Claims 1, 3, 4, 7, 8, 21, 22, 24, 25-28, and 41-43 are allowed.

The following is a statement of reasons for the indication of allowable subject matter:

Regarding claim 1, a transmitter having a means for formatting the required information into an XML and encapsulating that element into an integrity element (wherein the integrity element provide a means of verification through digital signatures) was neither found, suggested, nor made evident by the prior art

Regarding claim 25, a method for establishing a context of a user located within a coverage area associated with a transmitter that includes encapsulating a first XML element in a second XML element and converting the first XML element and the integrity element into a signal was neither found, suggested, nor made evident by the prior art.

Regarding claim 41, the means for determining by the transmitter contextually –relevant information about a service from raw data was neither found, suggested, nor made evident by the prior art.

Claims 18, 30, 36, and 40 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

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The following is a statement of reasons for the indication of allowable subject matter:

Regarding claim 18, an integrity element containing the various values such as checksum, size value, seed value, and an operator was neither found, suggested, nor made evident by the prior art.

Regarding claims 30 and 40, information in the form of an XML element encapsulated within an integrity element was neither found, suggested, nor made evident by the prior art.

Regarding claim 36, the generating and emitting of a time element in conjunction with the XML element for establishing a temporal context for the user was not found, suggested, nor made evident by the prior art.

### ***Conclusion***

Any inquiry concerning this communication from the examiner should be addressed to Alan Gantt at telephone number (571) 272-7878. The examiner can normally be reached between 9:30 AM and 6 PM within the Eastern Time Zone. The group FAX number is (571) 273-8300.

Any inquiry of a general nature or relating to this application should be directed to Supervisory Patent Examiner Nay Maung at telephone number (571) 272-7882.



Alan T. Gantt

December 5, 2005

  
NAY MAUNG

**SUPERVISORY PATENT EXAMINER**